

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Matthew & Holly Watters,**  
Appellants,

**v.**

**Dickinson County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-30-0939**  
**Parcel No. 03-28-376-020**

On April 3, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants Matthew and Holly Watters were self-represented. Assistant County Attorney Lonnie Saunders represented the Board of Review and participated by telephone. Both parties submitted documentary evidence in support of their position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Matthew and Holly Watters, owners of property located at 24460 140th Street, Orleans, Iowa, appeal from the Dickinson County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story, frame dwelling having 1654 total square feet of living area, two decks, and no basement. The dwelling is in normal condition, has a good quality grade (3-10), and 26% physical depreciation. The property is also improved by a 279 square-foot, detached garage. The property was built in 1951, and remodeled in 1991 and 2003.

The improvements are located on a lakeshore lot on Big Spirit Lake with 58 feet on the lake and road, and an average depth of 95 feet. The parcel has 48.14 effective-front-feet of lakeshore and a \$6000 unit price per effective-front-foot. The parcel is in an area known as Minnewaukon Beach.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$355,600, representing \$271,500 in land value and \$84,100 in improvement value. The Watters protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). They sought a reduction to \$312,100, allocated \$228,000 to land value and \$84,100 to improvement value. The Board of Review denied the protest. The Watters appealed to this Board, alleging the same over-assessment claim and seeking the same reduced assessment.

Matthew Watters testified they purchased the property in January 2012 for \$316,500. According to the property record card, the property was initially assessed for \$397,700 in 2012 but the Board of Review subsequently lowered the assessment to the purchase price. The Assessor raised the 2013 assessment to \$355,600, an increase of 12.3% from the 2012 assessed value set by the Board of Review.

Watters' primary contention relates to the valuation of his land. He states that the assessed land value increased 25% from 2012 to 2013. Watters calculated the average per-square-foot land value for the comparable lakeshore sites, which is a different method of calculation than that used by the Assessor and a method not typically used for lakeshore sites. The Assessor uses the actual front feet then modifies it by the depth factor to arrive at the *effective front foot* (EFF). The EFF unit price is to be arrived at through a land sales analysis. The unit price per EFF is then multiplied by a map factor for the location to arrive at the adjusted value. All of the properties selected by Watters have a unit price of \$5000, while his area of lakefront has a unit price of \$6000. The map factor is the same for all the properties and the property record cards indicate they all are located at Minnewaukon Beach, as is the subject property. The following chart shows Watters' selected comparables and the calculation used by the Assessor's office.

Address	Front Foot	Depth Factor	Effective Front Foot (EFF)	Price per EFF	Land Value	Map Factor	Assessed Land Value Per EFF Foot after Map Factor Adjustment
Subject Property	58.00	0.83	48.14	\$6000	\$271,500	0.94	\$5640
24580 140th St	57.00	0.78	44.46	\$5000	\$209,000	0.94	\$4700
24590 140th St	66.00	0.78	51.48	\$5000	\$242,000	0.94	\$4700
24570 140th St	52.00	0.78	41.08	\$5000	\$189,200	0.94	\$4600
24630 140th St	66.21	0.83	54.88	\$5000	\$257,900	0.94	\$4700
24610 140th St	66.00	0.81	53.46	\$5000	\$251,300	0.94	\$4700

Watters calculated a value of \$41.37 per-square-foot by averaging the assessed value per-square-foot of the five identified parcels. He then multiplied \$41.37 by the 5510 square feet of his parcel to arrive at his proposed land value of \$228,000. There are two major flaws with his analysis. First, lakeshore property is not typically valued on a per-square-foot basis and was not in Dickinson County. Second, the Watters' property has a \$6000 price per EFF, while the other parcels have a \$5000 price per EFF based on their location, which indicates the properties may not be comparable to the Watters' property.

In Watters' opinion, land values should be determined by sale prices. He considers the Assessor's method of assigning a value per-front-foot for different locations on the lake to be arbitrary. He believes while lake frontage is important, whether a lot is buildable is more important. According to his realtor, frontage over 50 feet was inconsequential.

At the suggestion of this Board, Watters submitted an appraisal completed by Steve Lindeberg of Lindeberg Appraisal in Spirit Lake, with an effective date of January 3, 2012. (Exhibit 4). Lindeberg completed the sales comparison approach and the cost approach for the subject property. He concluded a fee simple market value of \$320,000 for the subject property. Watters testified he was disappointed the appraised value was not higher because he understood the market had improved between the offer date and appraisal date. Watters testified the appraisal was "incomplete" and the appraiser was not able to find enough comparables to come up with a legitimate valuation.

Lindeberg used five arm's-length sales of dwellings in his analysis. It appears from the aerial photo, four of the sales were on the north shore, while only one was nearer the south shore where the subject property is located. This property had the highest sale price and price per-square-foot. The sales occurred between June 2011 and December 2011 and ranged from \$275,000 to \$355,000. The comparable properties were adjusted for site size, age, gross living area, basement/basement finish, garage size, bedroom/bath count, and fireplaces. He made two adjustments for the site differences in his sales approach, \$1250 per-front-foot of lake frontage and \$1 per-square-foot for site size. Adjusted sale prices ranged from \$289,700 to \$342,015. The subject value was estimated from a weighted analysis of all comparable sales to arrive at a value of \$320,000.

Lindeberg also developed the cost approach and estimated a value of \$366,400. He noted the last land sale on Big Spirit Lake was at \$5000 per front-foot. Based on this, Lindeberg estimated the market value of Watters' 58 front foot lot is \$290,000 ( $\$5000 \times 58 \text{ per front foot} = \$290,000$ ). He estimated a replacement cost new less depreciation for the improvements at \$76,400 (rounded). While Lindeberg believes the cost approach supports the sales approach results, he does not consider it as reliable as the sales approach. Lindeberg's final conclusion of value was \$320,000.

We note there is a \$46,400 difference between Lindeberg's cost approach and sales approach. Therefore, we do not believe the cost approach supports his value conclusion by the sales approach. Rather, this difference suggests the need for reconciliation between the two approaches. Lindeberg's sales comparables were from an inferior area of the lake and he used \$1250 per front-foot to adjust his sales comparables, while otherwise valuing the land at \$5000 per-front-foot in his cost approach. As a result, we decline to rely on his conclusion of value by the sales approach and we find his cost approach value of \$366,400 to be a more reliable indicator of value.

Assessor Stephanie Sohn testified the Board of Review reduced the 2012 assessment to the Watters' sale price. In 2013, she disregarded the 2012 Board of Review assessment and raised the

assessment to \$355,600 because the Board of Review did not indicate anything was “wrong” with the property and she wanted to maintain equitable assessments in the area. After she raised the assessment in 2013, the Board of Review denied the Watters’ protest.

Sohn reported the subject property is located in the area of the lake with the highest appeal. She selected the properties that are adjacent to Watters’ property for assessment comparison. (Exhibits F & G). The properties all have the same unit pricing, map factor, and price per *effective front foot* as the subject property indicating uniformity among those three properties.

Address	Front Foot	Depth Factor	Effective Front Foot	Unit Pricing	Assessed Land Value	Map Factor	Assessed Per Effective Front Foot as Adjusted
Subject Property	58.00	0.83	48.14	\$6000	\$271,500	0.94	\$5640
24450 140th St	66.00	0.86	56.76	\$6000	\$320,100	0.94	\$5640
24470 140th St	74.00	0.79	58.46	\$6000	\$329,700	0.94	\$5640

The Watters also offered the first four 2012 improved sale properties listed in the chart below. (Exhibits 3). The Assessor provided the last sale property. (Exhibit H). None of the sale prices have been adjusted to account for differences between the comparables and the subject property. Considering only those properties located at Big Spirit Lake, the unadjusted sale prices bracket the subject property’s sale price. Sohn explained 25701 105th Street is located on the north end of Big Spirit Lake with a front foot price of \$4500. 24570 140th Street, while closer to the Watters’ property, is in an area of the lake with a \$5000 price per-front-foot. While we recognize comparing lakeshore property on a per-square-foot basis is not an accepted method, the subject’s assessed value per square foot is above the median and average of the Big Spirit Lake properties, but is within the range. Since the majority of the property assessment values are attributed to land values, this \$1000 to \$1500 per effective-front-foot may account for some of the Watters’ higher assessment.

Address	Lake	Year Built	TSFLA	Date of Sale	Sale Price	SP/SF	Assessed Value	AV/SF
Subject	Big Spirit	1951	1654	1/15/2012	\$316,500	\$191.35	\$355,600	\$214.99
16502 255th Ave	East	1994	1210	5/31/2012	\$265,000	\$219.01	\$285,800	\$236.20
1311 Sunshine Rd	Arnolds Park	1999	1432	6/29/2012	\$270,000	\$199.55	\$229,900	\$160.55
25701 105th	Big Spirit	1959	1220	3/6/2012	\$297,500	\$243.85	\$284,700	\$233.36
24570 140th	Big Spirit	1962	1600	12/22/2012	\$345,000	\$215.63	\$310,900	\$194.31
24290 140th	Big Spirit	1956	2968	2/14/2012	\$467,500	\$157.51	\$461,200	\$155.39
<b>Big Spirit Lake Comparables</b>								
MEDIAN						\$215.63		\$194.31
AVERAGE						\$205.66		\$194.35

Reviewing the record, we find the preponderance of the evidence does not support the Watters' contention their property is over assessed.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable

properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Although the Watters’ primary concern is the assessed land value of their property, we note that “the final analysis for an improved property must be as a unit.” IOWA REAL PROPERTY APPRAISAL MANUAL 2-2. The Watters also questioned the Assessor’s use of the subject’s front foot to set the land value; however, we acknowledge this method is permitted by the MANUAL and is commonly used to value lakefront property. MANUAL 2-6.

The Watters claim the property’s correct value is \$316,500, based on the January 2012 sales price. In *Riley v. Iowa City Bd. of Review*, the Court determined that “[i]t is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not *conclusively* establish that value.” 549 N.W.2d 289, 290 (Iowa 1996). See IOWA REAL PROPERTY APPRAISAL MANUAL 1-2 (“The assessment of an individual property should not be based solely on the sale price.”).

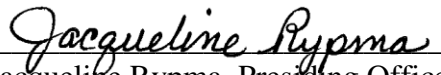
The subject sale occurred nearly a year prior to the assessment date and no adjustments were made to reflect the property’s value as of January 1, 2013. Because of this and the language in *Riley*, we decline to find the subject’s sale price conclusively establishes the property’s correct value as of the assessment date.

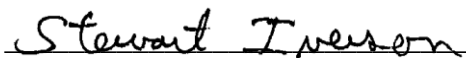
We also decline to rely on Lindeberg's appraisal. As previously stated, the sales approach appears to undervalue the subject property. Conversely, Lindeberg's cost approach supports the current assessment.

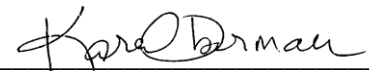
Viewing the record as a whole, we determine the preponderance of the evidence does not support the Watters' claim of over assessment as of January 1, 2013.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment as determined by the Dickinson County Board of Review, is affirmed.

Dated this 18th day of June, 2014.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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